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Scherrrie Bean, Paul Bitar,
Alberto Buencamino, James Dzurenda,
Jerry Howell, Jennifer Nash, and
Brian Williams*

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

SHANNON CARTER,
Plaintiff,

v.

S. BEAN, BITAR, and J. NASH, *et al.*,
Defendants.

Case No. 2:17-cv-01628-RFB-EJY

NOTICE OF APPEAL

Notice is hereby given that Defendants Scherrrie Bean, Paul Bitar, Alberto Buencamino, James Dzurenda, Jerry Howell, Jennifer Nash, and Brian Williams, by and through counsel, Aaron D. Ford, Attorney General for the State of Nevada, and Chris Davis, Deputy Attorney General, pursuant to Fed R. App. P. 3 & 4 and 28 U.S.C. § 1291, appeal this Court's order (EFC No. 87) denying Defendants' motion for summary judgment (EFC No. 18), asserting qualified immunity, which denial is immediately appealable and once appealed divest the district court of jurisdiction.

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1 The appeal is timely because Defendants timely moved (ECF No. 88) for
 2 reconsideration of the Court's Order denying summary judgment, which motion is listed in
 3 Fed. R. App. P. 4(a)(4), and the district court entered its order (ECF No. 113)¹ denying the
 4 motion for reconsideration no sooner than March 31, 2022, when the transcript which the
 5 district court ruled "shall serve as the written Opinion and Order of the Court" was entered
 6 on the Court docket.²

7 DATED this 8th day of April, 2022.

8 AARON D. FORD
 9 Attorney General

10 By: /s/ Chris Davis
 11 CHRIS DAVIS (Bar No. 6616)
 12 Deputy Attorney General

13 *Attorneys for Defendants*
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21 ¹ To the extent that this order involves qualified immunity, Defendants appeal this
 22 order as well.

23 ² In both the Reporter's Transcript entered on the docket no sooner than March 31,
 24 2022 (EFC No. 113) and the courts minute order dated September 22, 2021 (Minute Order,
 25 EFC No. 107), the district court ruled that the **"transcript of the hearing will be the
 26 opinion and order of the Court."** See Reporter Transcript, EFC No. 113 at 4:24-25; see
 27 *also* Minute Order, EFC No. 107. As the transcript was not entered on the Court docket
 28 until at least March 31, 2021, the time for appeal did not begin to run until that entry. See
 Fed. R. App. P. 4(a)(7)(A)(i) (an "order is entered . . . when the . . . order is entered in the
 civil docket under Federal Rule of Civil Procedure 79(a)). Under express Ninth Circuit
 precedent, the Minute Order, EFC No. 107, is not a final appealable order. See *Meyer v.*
Portfolio Recovery Associates, LLC, 707 F.3d 1036, 1041 (9th Cir. 2012) (holding "minute
 order was not a final appealable order" because the minute order "did not clearly evidence
 the judge's intention that it would be the court's final act on the matter," but "expressly
 stated" that another document would serve as the court's order).

CERTIFICATE OF SERVICE

I certify that I am an employee of the State of Nevada, Office of the Attorney General, and that on April 8, 2022, I electronically filed the foregoing **NOTICE OF APPEAL** via this Court's electronic filing system. Parties who are registered with this Court's electronic filing system will be served electronically.

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/s/ Carol A. Knight
CAROL A. KNIGHT, an employee of the
Office of the Nevada Attorney General